

§41.165

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lost or destroyed shall be supported as prescribed in §41.165, and a claim relating to articles withdrawn from the market shall include a schedule prepared and verified as prescribed in §§41.170 and 41.171 or §§41.172 and 41.173. The original of the claim shall be filed with the appropriate TTB officer. The duplicate of the claim, with the copy of any verified supporting schedules, shall be retained by the claimant.

(68A Stat. 907, as amended, 72 Stat. 1419, as amended; 26 U.S.C. 7652, 5705)

[T.D. 6871, 31 FR 46, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-48, 44 FR 55855, Sept. 28, 1979; T.D. ATF-232, 51 FR 28086, Aug. 5, 1986; T.D. ATF-243, 52 FR 43194, Dec. 1, 1986; T.D. ATF-251, 52 FR 19341, May 22, 1987. Redesignated and amended by T.D. TTB-16, 69 FR 52424, 52425, Aug. 26, 2004]

TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES LOST OR DESTROYED

§41.165 Action by taxpayer.

Where tobacco products and cigarette papers and tubes which have been imported or brought into the United States are lost (otherwise than by theft) or destroyed, by fire, casualty, or act of God, and the taxpayer desires to file claim for refund of the tax on such articles, he shall, in addition to complying with the requirements of §41.163, indicate on the claim the nature, date, place, and extent of such loss or destruction. The claim shall be accompanied by such evidence as is necessary to establish to the satisfaction of the appropriate TTB officer that the claim is valid.

(72 Stat. 1419, as amended; 26 U.S.C. 5705)

[T.D. 6871, 31 FR 46, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-232, 51 FR 28086, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986. Redesignated and amended by T.D. TTB-16, 69 FR 52424, 52425, Aug. 26, 2004]

TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES WITHDRAWN FROM THE MARKET

§41.170 Reduction of tobacco products to materials; TTB action.

(a) *General.* Where tobacco products and cigarette papers and tubes which have been imported or brought into the

United States are withdrawn from the market and the taxpayer desires to file claim for refund of the tax on the articles, he shall, in addition to the requirements of §41.163, assemble the articles at any suitable place, if they are to be destroyed or reduced to tobacco. The taxpayer shall group the articles according to the rates of tax applicable to the articles, and shall prepare a schedule of the articles on TTB Form 5200.7, in triplicate. All copies of the schedule shall be forwarded to the appropriate TTB officer.

(b) *Large cigars.* Refund or credit of tax on large cigars withdrawn from the market is limited to the lowest tax applicable to that brand and size of cigar during the required record retention period (see §41.22) except where the importer establishes that a greater amount was actually paid. For each claim involving large cigars withdrawn from the market, the importer must include a certification on either TTB Form 5200.7 or TTB Form 2635 (5620.8) to read as follows:

The amounts claimed relating to large cigars are based on the lowest sale price applicable to the cigars during the required record retention period, except where specific documentation is submitted with the claim to establish that any greater amount of tax claimed was actually paid.

(See 26 U.S.C. 5705)

[T.D. ATF-80, 46 FR 18311, Mar. 24, 1981, as amended by T.D. ATF-232, 51 FR 28086, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986; T.D. ATF-251, 52 FR 19341, May 22, 1987; T.D. ATF-307, 55 FR 52745, Dec. 21, 1990; T.D. ATF-424, 64 FR 71933, Dec. 22, 1999; T.D. ATF-420, 64 FR 71944, Dec. 22, 1999. Redesignated and amended by T.D. TTB-16, 69 FR 52424, 52425, Aug. 26, 2004]

§41.171 Reduction of tobacco products to materials, action by appropriate TTB officer.

Upon receipt of a schedule of tobacco products and cigarette papers and tubes which have been imported or brought into the United States and which are withdrawn from the market by a taxpayer who desires to destroy such articles or, in the case of tobacco products, reduce them to tobacco, the appropriate TTB officer may verify the schedule and supervise destruction of the articles (and stamps, if any) or the